

Order 2004-4-11  
Served: April 16, 2004

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.



Issued by the Department of Transportation  
on the 16<sup>th</sup> day of April, 2004

Essential air service at

**PORT ALEXANDER, ALASKA**

under 49 U.S.C. 41731 *et seq.*

**Docket OST-1999-6244**

**ORDER RESELECTING CARRIER**

**Summary**

By this order, the Department is tentatively reselecting Harris Aircraft Services, Inc. (Harris Air), to provide Essential Air Service (EAS) at Port Alexander, Alaska, for a new, two-year period, and requesting competing proposals from other carriers, which are due within 30 days of the service date of this order.

**Discussion**

By Order 2002-5-15 we selected Harris Air to provide EAS at Port Alexander, Alaska, through February 29, 2004, at an annual subsidy rate of \$20,735. Harris Air has provided subsidized service at Port Alexander for four years.

Under our normal procedures when we are nearing the end of a rate term and do not expect to receive competing proposals, we contact the incumbent carrier to determine whether it is interested in continuing service and whether it will continue to require subsidy. If the carrier wishes to continue service with subsidy, we usually negotiate a new subsidy rate with the carrier, issue an order tentatively reselecting the carrier for a new rate term at the agreed rate, and direct other parties to show cause why we should not finalize our tentative decision. Other carriers wishing to submit competing proposals are invited to do so in response to the show-cause order; if any such proposals are filed, we process them as a competitive case. Consistent with this practice, we invited Harris to submit proposals for continuation of essential air service at this community.

### **Carrier Service Proposal**

In response to our inquiry, Harris submitted and negotiated a renewal proposal for an additional two-year rate term. (See Appendix B to this order for a summary of the subsidy computations for Harris.) Harris's proposed service would continue to consist of two nonstop round trips per week to Sitka with a 3-seat Cessna 185 and would require \$35,206 in annual subsidy.

### **Tentative Reselection**

We will tentatively reselect Harris to provide essential air service at Port Alexander as detailed in Appendix C, for an additional two-year period. Harris will continue to provide two round trips a week to Sitka with a Cessna 185. Harris's service continues to be satisfactory and the community has informally stated that it is pleased with their service. We find that the proposed rate of \$35,206, an increase from the current rate of \$20,735, is reasonable for the level of service to be provided. Since Harris's contract expired on February 29, 2004, the rate will be effective March 1, 2004, and run for two years through February 28, 2006.

### **Request for Proposals**

In the event any carrier other than the incumbent is interested in filing proposals, with or without subsidy requests, it should file them within 30 days of the date of service of this order. At the end of that period, our staff will notify the incumbent of such a proposal, and provide it an additional 15 days to modify its proposal, if it so chooses. At the end of those 15 days, we will docket all proposals, thereby making them public, and direct each carrier, including the incumbent, to serve a copy of its proposal on the civic parties and other applicants. Shortly afterwards, we would provide a summary of the proposals to the community officials and ask them to submit their final comments, including ranking their preferences for the various options, while giving full consideration to all proposals that are timely filed.<sup>1</sup>

### **New Procedures**

The preceding paragraph reflects streamlined carrier-selection procedures that we have introduced for the essential air service program generally. In the past, we have accepted *initial* carrier proposals, reviewed them, and then negotiated *final* proposals with each applicant before formally presenting the proposals to the community and asking for their final comments. We had found that a negotiation process was generally necessary because, in most cases, the incumbent carrier was the only one interested. In this case, if another carrier wishes to submit a proposal, we will use the new procedures.

Consequently, interested carriers should prepare their proposals with every expectation that their initial proposals will also be their *final* and *only* proposals.<sup>2</sup> We retain the discretion to further negotiate proposals with carriers when we deem it desirable; in such cases, of course, we would give all applicants the same opportunity. In that regard, if timely proposals are filed by another carrier, we will notify the incumbent and provide it an additional 15 days to modify its proposal

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<sup>1</sup> In cases where a carrier proposes to provide essential air service without subsidy and we determine that service can be reliably provided without such compensation, we do not proceed with the carrier-selection case. Instead, we simply rely on that carrier's subsidy-free service as proposed.

<sup>2</sup> For this reason, we will allow carriers 30 days to submit their proposals, rather than just 20 as in the past. Also, it is incumbent on each carrier to discuss with the community its preferences before it submits its proposals.

if it chooses. We retain the discretion to reject outright all unreasonable or unrealistic proposals and resolicit a new round of proposals.

We are hereby providing interested carriers with some basic information to serve as guidance when they prepare their proposals, but we will not prescribe a precise format for their proposals. We expect proposals to adequately describe the service being proposed and the annual amount of subsidy being requested. The applicants can make their own judgments as to the level of detail they wish to present; however, they might want to include proposed schedules as well as supporting data for their subsidy requests, such as aircraft type, flight frequencies, projected block hours, passengers, revenues and expenses, completion factor, intermediate stops (if any), and whether or not upline service is contemplated. We strongly encourage clear, well-documented proposals that will facilitate their evaluation by the affected community and the Department. We do not anticipate any change in our selection criteria, or in the general provisions governing subsidy payments for essential air service.<sup>3</sup>

We encourage proposals that meet the needs of the community in an efficient manner. Carriers are also welcome to propose more than one service option, if they choose, and they need not limit themselves in any way if they envision other, potentially more attractive service possibilities -- different hubs or smaller aircraft, for example -- with subsidy requirements that remain competitive.

### **Service and Traffic History**

Harris Air has provided service to Port Alexander for a number of years. During the year ended December 31, 2003, the most recent 12-month period for which traffic data are available, Port Alexander generated 240 passengers.

### **Other Carrier Requirements**

The Department is responsible for implementing various Federal statutes governing lobbying activities, drug-free workplaces, and nondiscrimination.<sup>4</sup> Consequently, all carriers receiving Federal subsidy for essential air service must certify that they are in compliance with Department regulations regarding drug-free workplaces and nondiscrimination, and those carriers whose subsidies exceed \$100,000 over the life of the rate term must also certify that they are in compliance with the regulations governing lobbying activities. Because the Department is prohibited from paying subsidy to carriers that do not submit these documents, all carriers that

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<sup>3</sup> In selecting a carrier to provide subsidized essential air service, 49 U.S.C. 41733(c)(1) directs us to consider four factors: (1) service reliability; (2) contractual and marketing arrangements with a larger carrier at the hub; (3) interline arrangements with a larger carrier at the hub; and (4) community views. In addition, we have always given weight to the applicants' relative subsidy requirements. Appendix C contains the general provisions governing essential air service; as in the past, these provisions will be included in the selection order as part of the Department's authorization of subsidy for the selected service.

<sup>4</sup> The regulations applicable to these areas are: (1) 49 CFR Part 20 -- New restrictions on lobbying; (2) 49 CFR Part 21 -- Nondiscrimination in federally-assisted programs of the Department of Transportation -- Effectuation of title VI of the Civil Rights Act of 1964; 49 CFR Part 27 -- Nondiscrimination on the basis of disability in programs and activities receiving or benefiting from Federal financial assistance; and 14 CFR Part 382 - Nondiscrimination on the basis of disability in air travel; and (3) 49 CFR Part 29 -- Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants).

plan to submit proposals involving subsidy should be aware that the selected carrier will be required to complete the required certifications. Interested carriers requiring more detailed information regarding these requirements should contact the Office of Aviation Analysis at (202) 366-1053.<sup>5</sup>

### **Community and State Comments**

If we receive competing proposals, the community and state are welcome to submit comments at any time. We encourage prospective applicants to contact the community before they submit their proposals because their proposals are final. As noted earlier, we will provide a copy of the proposals to the civic parties and ask them to submit their final comments shortly after the end of the 45-day<sup>6</sup> period for carrier proposals.

### **Carrier Fitness**

49 U.S.C. 41737(b) and 41738 require that we find an air carrier fit, willing and able to provide reliable service before we may compensate it for essential air service. The Department has routinely monitored the carrier's continuing fitness. The Federal Aviation Administration has advised us that the carrier is conducting its operations in accordance with its regulations, and knows of no reason why we should not find that Harris remains fit. Harris has experience providing essential air service at Port Alexander, and, based on its operating record, we find that the carrier continues to be fit to provide the essential air transportation at issue in this case.

This order is issued under authority delegated in 49 CFR 1.56a(f).

### **ACCORDINGLY,**

1. The Department tentatively reselects Harris Aircraft Services, Inc., to provide essential air service at Port Alexander, Alaska;
2. The Department tentatively sets the final rate of compensation for Harris Air, Inc., for the provision of essential air service at Port Alexander, Alaska, for the period from March 1, 2004, through February 28, 2006, as described in Appendix C, payable as follows: for each calendar month during which essential air service is provided, the amount of compensation shall be subject to the weekly ceilings and shall be determined by multiplying the subsidy-eligible flights to and from Sitka completed during the month by \$169.26;<sup>7</sup>
3. In the event objections or competing proposals are received, the rate in ordering paragraph (2) above will be effective as a final rate until further Department action;

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<sup>5</sup> The certifications are also available on the web at <http://ostpxweb.dot.gov/aviation/index.html>.

<sup>6</sup> As discussed on page two, if other carriers submit proposals, the incumbent will be provided an additional 15 days to revise the proposal we are tentatively selecting here.

<sup>7</sup> See Appendix C for calculation.

4. We find that Harris Aircraft Services, Inc., continues to be fit, willing, and able to operate as a certificated air carrier and is capable of providing reliable air service at Port Alexander, Alaska;
5. We request that carriers interested in providing essential air service Port Alexander, Alaska, submit their proposals, with or without requests for subsidy, within 30 days of the service date of this order. An original and five copies of the proposal should be sent to the EAS and Domestic Analysis Division, X-53, Office of Aviation Analysis, Room 6401, Department of Transportation, 400 7<sup>th</sup> Street, S.W., Washington, D.C. 20590, with the title: "Proposal to Provide Essential Air Service at Port Alexander, Alaska, Docket OST-1999-6244;"<sup>8</sup>
6. We direct Harris Air to retain all books, records, and other source and summary documentation to support claims for payment and to preserve and maintain such documentation in a manner that readily permits the audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed, whichever comes first. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;
7. This docket will remain open until further order of the Department;
8. We direct all interested persons to show cause within 30 days of the date of service of this order why we should not make final the tentative findings and conclusions set forth above. Objections should be filed with the Docket Operations and Media Management Division, M-30, Room PL-401, 400 7th Street S.W., Washington, DC 20590;<sup>9</sup>
9. In the event that no objections are filed, all further procedural steps will be deemed waived and this order shall become final on the 31st day following its date of service; and

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<sup>8</sup> After serving a copy of its proposal on the state and civic officials of Port Alexander, Alaska, and each of the other applicants, each applicant must then file a certification of service with the Department's Docket Operations and Media Management Division M-30. Questions regarding filings in response to this order may be directed to Kevin Adams at (202) 366-1047.

<sup>9</sup> In addition, copies of objections may be faxed to the Chief, EAS & Domestic Analysis Division, at (202) 366-7638. Regardless of whether copies are faxed to the EAS & Domestic Analysis Division, all objections should be filed with the Docket Operations and Media Management Division at the above address.

10. We will serve copies of this order on the civic officials of Port Alexander, Alaska, the Alaska Department of Transportation, and the Alaska bush carriers in Appendix D.

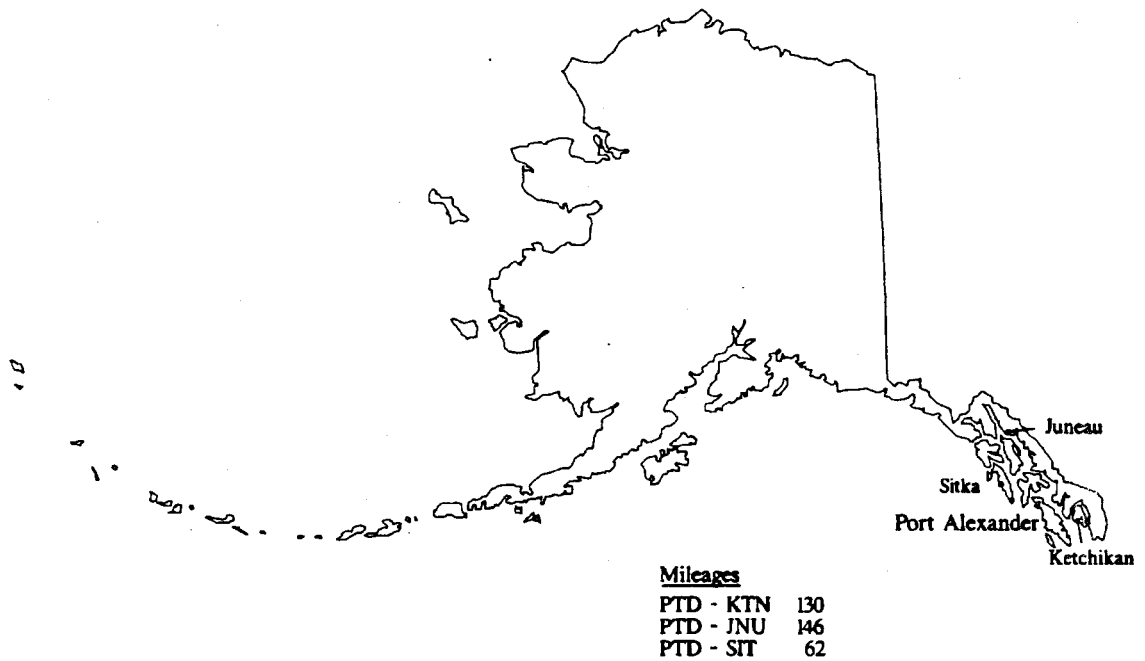
By:

**KARAN K. BHATIA**  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

*An electronic version of this document is available  
on the World Wide Web at <http://dms.dot.gov>*

## AREA MAP PORT ALEXANDER AND HYDABURG



## Appendix B

### Harris Air, Annual Subsidy Need at Port Alexander, Alaska, Docket OST-99-6244

Aircraft Type	Cessna 185
Block Hours	153 1/
Passengers	\$20,400 2/
Mail	\$0
<u>Cargo</u>	<u>\$1,500</u>
Total Revenue	\$21,900
Flying Operations @ \$86.66/hr.	\$13,259
Fuel & Oil @ \$49.28/hr.	\$7,540 3/
Insurance @ \$35/hr.	\$5,355 4/
Maintenance @ \$40.71/hr.	\$6,229
<u>Depreciation @ \$25.33/hr.</u>	<u>\$3,875</u>
Direct Expense	\$36,258
Indirects @ 50% of directs	\$18,129
Total Operating Expense	\$54,387
<u>Return at 5%</u>	<u>\$2,719</u>
Total Economic Cost	\$57,106
Annual Subsidy Need at 100% completion	\$35,206

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1/ 40 minutes per flight x 4 flights/week x 52 weeks x 1.1 weather turnaround = 153 hours

2/ 240 passengers x \$85/passenger

3/ 16 gph x \$3.08/gallon = \$49.28/hr.

4/ \$6,000 for pax. liability, \$3,500 for 3rd party liab., and \$22,000 for hull insurance, divided by 900 hours annual utilization = \$35/hr.



## Appendix C

### **Harris Air, Inc., Essential Air Service to be Provided to Port Alexander, Alaska, Docket OST-1999-6244**

Effective Period: March 1, 2004, through February 28, 2006.

Scheduled Service:

2 nonstop round trips per week to Sitka.

Aircraft: Cessna 185

Rate per Sitka Flight: \$169.26 <sup>1</sup>

Weekly Ceiling at each Community: \$677.04 <sup>2</sup>

Note: The carrier understands that it may forfeit its compensation for any flights that it does not operate in conformance with the terms and stipulations of the rate order, including the service plan outlined in the order and any other significant elements of the required service, without prior approval. The carrier understands that an aircraft take-off and landing at its scheduled destination constitutes a completed flight; absent an explanation supporting subsidy eligibility for a flight that has not been completed, such as certain weather cancellations, only completed flights are considered eligible for subsidy. In addition, if the carrier does not schedule or operate its flights in full conformance with this order for a significant period, it may jeopardize its entire subsidy claim for the period in question. If the carrier contemplates any such changes beyond the scope of the order during the applicable period of these rates, it must first notify the Office of Aviation Analysis in writing and receive written approval from the Department to be assured of full compensation. Should circumstances warrant, the Department may locate and select a replacement carrier to provide service on these routes. The carrier must complete all flights that can be safely operated; flights that overfly points for lack of traffic will not be compensated. In determining whether subsidy payment for a deviating flight should be adjusted or disallowed, the Department will consider the extent to which the goals of the program are met and the extent of access to the national air transportation system provided to the community.

If the Department unilaterally, either partially or completely, terminates or reduces payments for service or changes service requirements at a specific location provided for under this order, then, at the end of the period for which the Department does make payments in the agreed amounts or at the agreed service levels, the carrier may cease to provide service to that specific location without regard to any requirement for notice of such cessation. Those adjustments in the levels of subsidy and/or service that are mutually agreed to in writing by the parties to the agreement do not constitute a total or partial reduction or cessation of payment.

Subsidy contracts are subject to, and incorporate by reference, relevant statutes and Department regulations, as they may be amended from time to time. However, any such statutes, regulations, or amendments thereto shall not operate to controvert the foregoing paragraph.

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<sup>1</sup> Annual compensation of \$35,206 divided by 208 estimated annual completed departures and arrivals at a 100 percent completion factor: 4 flights per week x 52 weeks = 208 total flights.

<sup>2</sup> 4 flights/week x \$169.26.

Southeast Alaska

Alaska Air Carriers Association

Alaska Seaplane

Island Air Service

LAB

Promech

Skagway

Taquan

Wings of Alaska

Servant Air

Spernak

Pacific Airways

Misty Fjords

Port Alexander

Alaska Department of Transportation and Public Facilities